



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

LILLIAN HUDSPETH MEMORIAL
3255 WEST PIONEER PARKWAY
ARLINGTON TX 76013

Respondent Name

TEXAS MUTUAL INSURANCE CO

Carrier's Austin Representative Box

Box Number 54

MFDR Tracking Number

M4-12-1814-01

MFDR Date Received

January 27, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Since TDI moved to a 200% of MAR for outpatient services on 3/1/08 for hospital claims, we have reviewed the Medicare allowance and decided the insurance reimbursement does not meet this criteria. Medicare would have allowed this facility \$1839.81 for the MAR at 200% plus the 10% HPSA bonus. Based on their payment of \$1470.96, a supplemental payment of \$437.90 is due."

Amount in Dispute: \$437.90

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor seeks additional reimbursement beyond the OPPS payment modified by the DWC payment adjustment factor of 200%. The basis for this is the requestor's argument it is due a HPSA payment because it is a critical access hospital (CAH). Texas Mutual does not agree for the following reasons. The requestor has not provided any supporting evidence to support its belief. Such evidence is (a) if the hospital is located in a primary medical care HPSA area and (b) if the hospital elected the Method II option for critical access hospital...However, absent such evidence no additional payment is due."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 19, 2011	Outpatient Services-Codes 73510, 70450, 72125, 99284, 96374, 90471, 96372, and 12011	\$437.90	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 effective May 25, 2008, 33 *Texas Register* 3954, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, reimbursement guidelines for medical services provided in an outpatient acute care hospital on or after March 1, 2008.
3. 28 Texas Administrative Code §134.1 effective March 1, 2008, 33 *Texas Register* 626, sets forth general provisions related to medical reimbursement.

4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- CAC-W1-Workers compensation state fee schedule adjustment.
- 370-The hospital outpatient allowance was calculated according to the APC rate, plus a markup.
- 435-Per NCCI Edits, the value of this procedure is included in the value of the comprehensive procedure.
- 618-The value of this procedure is packaged into the payment of other services performed on the same date of service.
- 630-This service is packaged with other services performed on the same date and reimbursement is based on a single composite APC rate.
- 737-Modifier is not applicable to DWC specific codes (i.e. AQ; GP; GO; 59)
- 767-Reimbursement per O/P FG at 200%. Separate reimbursement for implantables (including certification) not requested per rule 134.403(G).
- CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 683-This allowance has been reduced in accordance with the Medicare guidelines concerning the quality data reporting program.
- 891-No additional payment after reconsideration.

Issues

1. Is the requestor classified as a Critical Access Hospital (CAH)?
2. What is Medicare's reimbursement policy for CAH?
3. What is the DWC reimbursement methodology applicable to this dispute?
4. Is the requestor entitled to reimbursement?

Findings

1. According to CMS, a hospital must meet one of the following criteria to be classified/reclassified as a Critical Access Hospital (CAH):
 - the hospital is located in a non-MSA county; or
 - the hospital is located in a census tract considered rural under the Goldsmith Modification; or
 - the hospital is treated as rural by the State through a statutory or regulatory provision adopted by the State.

According to CMS NPI Registry, Lillian Hudspeth Memorial Hospital in Sonora, TX is classified as a CAH.

2. Pursuant to 28 Texas Administrative Code §134.403(d), "For coding, billing, reporting, and reimbursement of health care covered in this section, Texas workers' compensation system participants shall apply Medicare payment policies in effect on the date of service is provided with any additions or exceptions specific in this section."

According to CMS policy, there are two methods of reimbursement for CAH services:

- The Standard Payment Method – CAH facility services are paid at 101 percent of reasonable costs.
- The Optional Payment Method – CAH facility services are paid a reasonable cost-based facility service plus 115 percent fee schedule payment for professional services.

According to CMS policy, CAHs elect from the two payment methodologies: Standard or Optional.

3. Pursuant to 28 Texas Administrative Code §134.403(d), "For coding, billing, reporting, and reimbursement of health care covered in this section, Texas workers' compensation system participants shall apply Medicare payment policies in effect on the date of service is provided with any additions or exceptions specific in this section."

Pursuant to 28 Texas Administrative Code §134.403(e)(1-3), "Regardless of billed amount, reimbursement shall be: (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code 413.011; or (2) if no contracted fee schedule exists that complies with Labor Code 413.011, the maximum allowable reimbursement (MAR) amount under subsection (f), including any applicable outlier payment amounts and reimbursement for implantables; (3) If no contracted fee schedule exists that complies with Labor Code 413.011, and an amount cannot be determined by application of the formula to calculate the MAR as outlined in subsection (f) of this section, reimbursement shall be determined in accordance with 134.1 of this title (relating to Medical Reimbursement)."

The submitted documentation does not support that a contractual agreement for the disputed services exists; therefore, 28 Texas Administrative Code §134.403(e)(1) does not apply.

28 Texas Administrative Code §134.403(f), “The reimbursement calculation used for established the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*.”

According to CMS policy, CAHs are not subject to the Hospital Outpatient Prospective Payment System; therefore, 28 Texas Administrative Code §134.403(e)(2) does not apply.

In accordance with 28 Texas Administrative Code §134.403(e)(3) reimbursement for the disputed services shall be determined in accordance with 28 Texas Administrative Code §134.1.

4. This dispute relates to services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.1, which requires that, in the absence of an applicable fee guideline or a negotiated contract, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection 134.1(f), which states that “Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available.”

Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

Former 28 Texas Administrative Code §133.307(c)(2)(G), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” Review of the submitted documentation finds that:

- The requestor's position statement asserts that “Since TDI moved to a 200% of MAR for outpatient services on 3/1/08 for hospital claims, we have reviewed the Medicare allowance and decided the insurance reimbursement does not meet this criteria. Medicare would have allowed this facility \$1839.81 for the MAR at 200% plus the 10% HPSA bonus. Based on their payment of \$1470.96, a supplemental payment of \$437.90 is due.”
- Medicare allows physicians a 10 percent Health Professional Shortage Area (HPSA) bonus payment for outpatient professional services. The requestor is a hospital facility; therefore, the 10 percent HPSA bonus payment for outpatient professional services does not apply.
- The requestor did not submit documentation to support that additional payment of \$437.90 is fair and reasonable reimbursement.
- The requestor does not discuss or explain how \$437.90 supports the requestor's position that the amount sought is a fair and reasonable reimbursement for the services in this dispute.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the submitted documentation finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	10/17/2013 _____ Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.